REMARKS

Claims 1-30 are pending in the present application. Applicant notes with appreciation the indication of allowable subject matter with respect to claims 13-18, 21 and 26-30. With entry of this Amendment, Applicant cancels claims 1-24 without prejudice and amends claims 25 and 28. Reexamination and reconsideration are respectfully requested.

In view of the cancellation of claims 1-24, only the rejections relating to claims 25-30 will be addressed below.

Claim 25

Applicant has amended claim 25 to place the claim in independent form. In so doing, Applicant has amended certain recitations of claim 25 to better claim the invention. For example, Applicant has amended the word "diverged" to "diverging." Applicant has amended the phrase "both end portions of said tube member is flared so as to be caulked in tight contact with said wide portions of said bar" to "both end portions of said tube member being plastically deformed so as to be held in tight contact with said wide portions of said bar as said anchor."

The Examiner provisionally rejected claim 25 under 35 U.S.C. § 101 as claiming the same invention as claims 1-24 of copending application no. 10/289,898. The Examiner has noted that the claims of the copending application refer to a through-hole having a narrow portion and wide portions with the wide portions being continuous to both ends of the narrow portion. In contrast, claim 25 of the present application recites that the wide portions diverge from both ends of the narrow portion. The Examiner contends that claim 25 has a narrower limitation that the claims of the copending application and cites MPEP 804(II)A for support in rejecting claim 25 under § 101.

Applicant respectfully submits that the words "continuous" and "diverging" claim different subject matter and, thus, a statutory double patenting rejection is not warranted. Furthermore, even if one accepts the Examiner's position that "diverging" is somehow narrower than "continuous" (which it is not), then a statutory double patenting rejection is still not warranted.

The Examiner's position appears to be that a broader claim in an application covering the scope of a narrower claim in another application is grounds for a provisional statutory double patenting rejection of the narrower claim. Applicant respectfully submits that the Examiner has misconstrued the requirements for a statutory double patenting rejection. A statutory double patenting rejection is proper only when the claims of the two application are claiming the same *identical* invention. While a broader claim may cover the scope of a narrower claim, it also covers *more* by definition, thereby precluding a statutory double patenting rejection.

Rather than supporting the Examiner's contention, the cited MPEP section actually supports the Applicant's position. According to the cited section, the test is whether an embodiment is covered by a claim of the first application and not covered by a claim of the second application. The section then provides an example involving halogen and chlorine, which is a member of the halogen group. A claim with a broader limitation (such as "halogen") does not claim the same invention as a claim with a narrower limitation (such as "chlorine") because "'halogen' is broader than 'chlorine.'" That is, it is irrelevant that the halogen claim covers the scope of the chlorine claim. What is relevant is that the halogen claim is broader than -- and, thus, not identical to -- the chlorine claim.

The same reasoning would apply to the present application. If "diverging" is narrower than "continuous" as the Examiner claims (which it is not), the claims are not claiming the identical subject matter and thus a statutory double patenting rejection is not warranted. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection.

Claims 26 and 27

Claim 26 depends from claim 25. Applicant notes that the Examiner indicated that claim 26 included allowable subject matter and also rejected claim 26 under § 103(a) as being unpatentable over Kanemitsu in view of Helderman and an Official Notice. Applicant is accordingly uncertain as to the status of claim 26. Applicant notes that claim 25 has not been rejected based on prior art. Thus, while Applicant respectfully traverses the rejection of claim 26,

including the Official Notice, it is believed that claim 25 by being in condition for allowance renders dependent claim 26 in condition for allowance as well.

Claim 27 also depends from claim 25, and it is believed to also be in condition for allowance.

Claims 28-30

The Examiner rejected claims 28-30 under § 112, second paragraph, as being indefinite in view of the word "caulking" in independent claim 28. While it is believed that the word "caulking" is clearly defined in the specification and accompanying figures, Applicant has amended claim 28 to recite "radially expanding both ends" as opposed to "caulking both ends." Applicant has also amended claim 28 by deleting the phrase "so that both of said both end portions and said side portions are flared . . . ." Applicant respectfully submits that claim 28 and its dependent claims 29 and 30 are in condition for allowance.

In view of the above, the Examiner is respectfully requested to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicant requests that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032034420.

Dated: June 29, 2005

Respectfully submitted,

By _____

Mehran Arjomand
Registration No.: 48,231
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013
(213) 892-5200